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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/772,922 | 01/31/2001 | Yasuaki Ikemura | 826.1672/JDH | 9972 |
| 21171 | 7590 | 07/09/2007 | | |
| STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005 | | | EXAMINER SHAAWAT, MUSSA A | |
| | | | ART UNIT 3627 | PAPER NUMBER |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|-------------------------------|--------------------------------|--|
| Office Action Summary | Application No. 09/772,922 | Applicant(s) IKEMURA ET AL. | |
| | Examiner Mussa A. Shaawat | Art Unit 3627 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 4/16/07.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 19-24 is/are pending in the application.
- 4a) Of the above claim(s) 5-9, 23 and 24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 10, 11 and 19-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/28/2006</u> | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

1. This action is in response to the amendment filed on April 16, 2007. Claims 1 and 19 have been amended. Claims 5-9 and 23-24 have been withdrawn. Claims 12-18 have been cancelled. Claims 1-4, 10-11, 19-22 are pending examination.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1,2,3,4,10,11,19,20,21,22 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO/29578 in view of Manchala.

WO 96/29578 discloses an order unit monitoring a remainder quantity of merchandise for a purchaser, and transmitting an order signal requesting an order of the merchandise when the remainder quantity reaches a predetermined quantity (see at least abstract);

a receiving unit receiving the order signal (interface 104 receives a signals resulting from comparing projected usage level to actual and a resultant signal which prompts a delivery);

a prediction period calculation unit (system 10 predicts storage tank product levels based on forecasted and actual usage rates, page. 17 lines 18-34); calculating a period until a remainder quantity of the merchandise is exhausted based on purchase history of a purchaser ("system 10 compares the projected usage level to the actual

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usage level every predetermined time period” and “the system 10 predicts storage tank product levels based on forecasted and actual usage rates”, the system 10 compares the projected usage level to the actual usage level...; [I]f a significant disparity arises, the inventory management system 10 determines whether a low product level will occur...” see, WO 29578 page 17 lines 18-34. Since the system 10 compares projected to actual usage levels of product this difference must by definition include the variable of the time left because the formula for determining same function of time for example usage is defined by $\text{gallons/day(actual)} - \text{gallons/day(theory)}$, including at least a previous purchase day on which the purchaser specified by the order signal purchased the merchandise (see page 10 lines 15-30). The result is still the function of time period i.e. one day. The exhaust limit is read as the low product level threshold. The system in WO'578 is fully capable of purchasing based on purchase history because it is so closely tied to the supplier and so long as deliveries are made, the purchase history continues to be understood as reliable;

An order quantity calculation unit calculating a merchandise consumption amount per day base on the purchase history and the remainder quantity of the merchandise (see at least abstract, page 10 lines 15-30), and calculating an order quantity of the merchandise based on the merchandise consumption amount (see at least page 3 lines 13-23), the period left until the remainder quantity of merchandise will be exhausted (see at least page 4 lines 14-20); and the remainder quantity of merchandise (see at least page 5 lines 21-30);

However, WO 96/29578 does not disclose an order information preparation unit referring to the selling prices recorded and selecting a shop where the merchandise can be purchased at lowest cost, and a purchase date within the period left until the remainder quantity of the merchandise will be exhausted selling price the merchandise, and preparing order information for ordering the merchandise in the order quantity from the shop; an order unit ordering the merchandise from the selected shop based on the order information. But, Manchala et al. disclose an order information preparation unit which does select or is capable of selecting a supplier based on the cheapest price and calculated period (leeway) (see col. 6 , lines 23-30 vendors A/B selected based upon price). It would be obvious to modify the apparatus 10 in WO '578 to include the best priced vendor feature of Manchala et al. the motivation this would allow for cost savings for the buyer and reliability;

Also, Manchala teaches a system having a unit which does or is capable of functioning as a shop information acquisition unit acquiring from each of a plurality of shops (vendors) selling prices of the merchandise (products) for a specified period and recording the selling prices of the merchandise for the specified period by associating the selling prices with shop names and selling dates which apparently is not disclosed WO'578. This is because network application in Manchala is fully capable of functioning acquiring pricing because it is programmed to solicit quotes from various vendors and to do this in a specified period is a function that any computer can execute. More specifically, col. 5 lines 55 et seq. identity of each vendor is given a vendor id., col. 6 lines 26 et seq. and in col. 6 lines 26 et seq. other vendors are sought for quotes which

inherently would have an id associated with them. The calculated period is read as the period in which the solicitation for quotes was made and/or any period which is capable of being entered into the system;

Notwithstanding, even if the functional language of the claims is not met exactly by the above combination, the combination is nevertheless still fully capable of functioning in the manner set forth by applicant in the claims, given that applicant has failed to assert 112 sixth paragraph meaning in the claim language hence all language following the terms "unit" is deemed to be functional;

Re claim 2: Manchala et al. disclose timing an order e.g. setting a purchase day in col. 6 and when and where the merchandise can be purchased most cheaply, taking into consideration, the calculated period, the order unit places an order with the selected shop so that the merchandise can be purchased on the selected purchase day (one of vendors A/B is selected based upon leeway e.g. calculated period and purchase day is read as the day where the inventory is depleted beyond an allowable level. The cost of delivery as part of a purchase price is old and notorious and official notice is hereby taken thereof. The motivation is again repeated as allowing for cost savings for the buyer.

Re claim 3: Manchala et al. disclose the variation between the price offered by vendors A or B is read as a fluctuation. The motivation for the teaching of Manchala et al. would be to allow for cost savings for the buyer.

Re claim 4: Manchala et al. disclose evaluating current demand which is deemed to be an obvious variant of season change (holiday season vs. regular time) and purchase history. The motivation for the teaching of Manchala et al. would be to allow for cost savings for the buyer.

Re claim 10: col. 6 line 18 in Manchala et al. disclose inventory level which is read as a predetermined quantity. The motivation for the teaching of Manchala et al. would be to allow for cost savings for the buyer.

Re claim 11: WO/96/29578 disclose fluid inventory. The motivation for the teaching of Manchala et al. would be to allow for cost savings for the buyer.

Claim 19:

WO'578 discloses a method which receives an order signal requesting an order of merchandise when a remainder quantity of the merchandise reaches a predetermined quantity (see abstract); WO'578 discloses automatically calculating a period left until a remainder quantity of the merchandise is will be exhausted, based on purchase history, including at least a previous day on which the purchaser, specified by the order signal, purchased the merchandise; calculating a merchandise consumption amount per day base on the purchase history and the remainder quantity of the merchandise (see at least abstract, page 10 lines 15-30); calculating an order quantity of the merchandise based on the merchandise consumption amount (see at least page 3 lines 13-23), the period left until the remainder quantity of merchandise will be exhausted (see at least page 4 lines 14-20); and the remainder quantity of merchandise (see at least page 5 lines 21-30); WO'578 discloses interface 104 receives a signals resulting from comparing projected usage level to actual and a resultant signal which prompts a delivery); a prediction period calculation unit (system 10 predicts storage tank product levels based on forecasted and actual usage rates, page. 17 lines 18-34) ("system 10

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compares the projected usage level to the actual usage level every predetermined time period” and “the system 10 predicts storage tank product levels based on forecasted and actual usage rates”, the system 10 compares the projected usage level to the actual usage level...; [I]f a significant disparity arises, the inventory management system 10 determines whether a low product level will occur...” see, WO 29578 page 17 lines 18-34. Since the system 10 compares projected to actual usage levels of product this difference must by definition include the variable of the time left because the formula for determining same is a function of time for example usage is defined by gallons/day(actual)- gallons/day(theory). The result is still the function of time period i.e. one day. The exhaust limit is read as the low product level threshold. The system in WO'578 does purchase based on purchase history because it is so closely tied to the supplier and so long as deliveries are made, the purchase history continues to be understood as reliable and will continue.

Manchala disclose for a specified period is read as the leeway period in which the need exists, and hence Manchala receiving price signals with selling prices of the merchandise at a plurality of shops for at least one specified period and recording the selling prices of the merchandise for the specified period by associating the selling prices with Shop names and selling dates. Manchala et al. disclose an order information preparation unit, which does select or is capable of selecting a supplier based on the cheapest price and calculated period (leeway) (see col. 6 , lines 23-30 vendors A/B selected based upon price). It would be obvious to modify the apparatus 10 in WO '578 to include the best priced vendor feature of Manchala et al. the motivation this would allow for cost savings for the buyer and reliability.

Manchala disclose automatically selecting a shop where the merchandise can be purchased most cheaply, based on a purchase date within the period left until the remainder quantity of the merchandise will be exhausted and a selling price of the merchandise. Manchala disclose Vendors A or B are selected by the system based on lowest price, and purchase date e.g., product must be available within the calculated period.

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Manchala disclose automatically preparing order information based on the selection; and automatically placing an order with the selected shop to order the merchandise Manchala col. 4, line 28 purchasing service places order)

It would be obvious to modify WO'578 with the best vendor price and availability feature of Manchala et al. the motivation being the most efficient delivery and pricing of product without worry of running out of supply.

RE claim 20: Manchala discloses selecting a purchase day and a shop based on leeway (col. 6 line 23) namely when and where the merchandise can be purchased most cheaply, taking into consideration the delivery charge (inherent consideration in any lost price purchase), within the calculated period; and placing an order with the selected shop so that the merchandise can be purchased on the purchase day (leeway determination gets the product purchased when needed).

Re claim 21: WO'578 discloses determining a period the amount of chemical to be used during a future predetermined time period and purchase order releases are scheduled and transmitted to the supplier based upon these estimates answering calculating a prediction order quantity based on the calculated period, the purchase history, and remainder quantity information and notifying the selected shop of the prediction order quantity when placing an order.

RE claim 22 official notice is taken of the season change in commodity purchasing, e.g. oil in the winter time.

Response to Arguments

4. Applicant's arguments have been fully considered but are not persuasive. In particular applicant argues A) that WO 96/29578 does not specify that the rate is "a merchandise consumption amount per day", or that this rate is calculated "based on the purchase history" which includes "at least a previous purchase day"; B) WO 96/29578

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does not teach "an order quantity of the merchandise based on the merchandise consumption amount, the period left until the remainder quantity of the merchandise will be exhausted, and the remainder quantity of the merchandise".

In response to A), examiner respectfully disagrees. Applicant is reminded that claims must be given their broadest reasonable interpretation. WO 96/29578 discloses that the rate is calculated based on a merchandise consumption amount per twenty-four hour i.e. per day (see at least Page 10 lines 15-20). Therefore WO 96/29578 still meets the scope of the limitation as currently claimed.

In response to B), examiner respectfully disagrees. WO 96/29578 discloses an order quantity of the merchandise based on the merchandise consumption amount (see at least page 3 lines 13-23), the period left until the remainder quantity of merchandise will be exhausted (see at least page 4 lines 14-20, the usage information being used by the processing unit to project *when (i.e. period left)* the consumable supplies will be depleted *i.e. exhausted*, and see Abstract period of time until supplies are depleted); and the remainder quantity of merchandise (see at least page 5 lines 21-30, sensor detecting the quantity of supplies along with determining the consumption rate of the supplies will result in determining how much of supplies remain). Therefore, WO 96/29578 still meets the scope of limitations as currently claimed.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

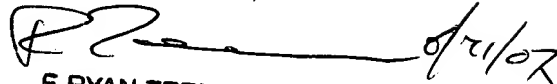
Contact Information

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mussa A. Shaawat whose telephone number is 571-272-2945. The examiner can normally be reached on Mon-Fri (8am-5:30pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Florian Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Mussa Shaawat
Patent Examiner
June 20, 2007


F. RYAN ZEENDER
SUPERVISORY PATENT EXAMINER